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Plaintiff in Pro Se

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LARRY KLAYMAN,

Plaintiff,

v.

JUDICIAL WATCH,

Defendant.

Case No. : 14-cv-1602

[Pending in the Southern District of
Florida, Case 13-20610-CIV]

**REPLY IN SUPPORT OF
EXPEDITED MOTION TO
COMPEL COMPLIANCE WITH
SUBPOENA TO ORLY TAITZ
AND REQUEST TO SUMMARILY
GRANT MOTION ON THE
PLEADINGS BEFORE APRIL 7,
2014 CURRENTLY SCHEDULED
ORAL ARGUMENT AS ALL AND
ANY OBJECTIONS HAVE BEEN
WAIVED**

Hearing Date: April 7, 2014

Time: 10:00 am

Judge: Hon. Audrey B. Collins

Courtroom: 680

1 Plaintiff Larry Klayman hereby files his Reply in Support of his Expedited
2 Motion to Compel Compliance with Subpoena to Orly Taitz.
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4 **INTRODUCTION**
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6 Plaintiff filed this Motion to Compel Compliance With Subpeona to Orly
7 Taitz ("Taitz" or "the Deponent") after Taitz refused to sit for a deposition on
8 January 30, 2014 or any other day. Under these circumstances, where the
9 Defendant has failed to move to quash or modify the subpoena, and thus waived all
10 objections, the Court may respectfully sign the proposed order without a hearing.
11 This is particularly true since Plaintiff is simply requesting that this motion be
12 transferred to the Southern District of Florida to be heard by Magistrate Judge
13 Andrea Simonton.
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17 Further, the hearing for this motion is currently set for April 7, 2014, the
18 same day as certain pre-trial deadlines for the lawsuit in Miami, Florida.
19 Accordingly, it is for this reason that Plaintiff requested expedited handling of this
20 motion when he initially filed it on March 4, 2014, nearly three weeks ago. As a
21 result, and for the reasons set forth below, Plaintiff respectfully that this Court
22 summarily grant this motion on the pleadings as soon as practicable before April 7,
23 2014; particularly since the Deponent and Defendant have long since waived any
24 objections to Ms. Taitz being deposed.
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ARGUMENT

Defendant Failed to Move to Quash or Modify the Subpoena, Or Even Object to The Subpoena and Has Thus Waived All Objections.

In order to object to a subpoena, a deponent must make a formal motion to quash or modify the subpoena. (see *Aetna Cas. and Sur. Co. v. Rodco Autobody*, 130 F.R.D. 2, 3 (D. Mass. 1990)([T]he fact that objections were served is *no excuse whatsoever* not to attend the deposition. If the witnesses considered that they had grounds not to appear, they were required to file a motion for a protective order.")(Emphasis in original).

Taitz was served on January 20, 2014, and to this day, sixty-three (63) days later, has not filed a motion to quash or modify. Defendant Judicial Watch, similarly has not filed a motion to quash or modify. The failure by both the Deponent and the Defendant to file motions to quash or modify the subpoena means that they have both waived all objections to the issuance of the subpoena.

Nevertheless, Defendant also waived all of its objections when it failed to object within 14 days of the service of the subpoena.

Specifically, FRCP 45 (a)(2)(B) states:

"(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. **The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served."**

FRCP 45 (a)(2)(B)(Emphasis added). Deponent Taitz failed to object to the subpoena in any way, and has thus waived any objections to the subpoena. Taitz was served on January 20, 2014, and to this day, sixty-three (63) days later, has not filed an objection to this subpoena. Defendant Judicial Watch, similarly has not filed an objection. The failure by both the Deponent and the Defendant to object means that they have both waived all objections to the issuance of the subpoena.

Instead of objecting, Deponent, an attorney and officer of this Court, chose to simply ignore the subpoena.

Proper Service of Process Was Made

Defendant claims that the certificate of service "indicates it was not served by mail or any other means by Plaintiff." Memo. Opp. Motion at pp. 5.

The certificate of service clearly states:

"I also certify that the foregoing document is being served this date on all counsel of record or pro se parties on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by the CM/ECF system **or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.**"

See Motion to Compel; Certificate of service (Emphasis added). As indicated below the certificate, both Mr. Kress, Defendant's Florida counsel, and Orly Taitz, the deponent, were served "VIA EMAIL AND U.S. MAIL" as indicated on the face of the certificate. *Id.* (Emphasis in original).

Plaintiff Conferred With Both Defendant's Florida Counsel And The

1 **Deponent Before Filing This Motion.**

2 Plaintiff conferred with Mr. Kress, Defendant's Florida counsel, prior to the
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4 filing of this motion within this Court. Mr. Kress informed Plaintiff that he did not
5 consent to a motion to compel.

6 Similarly, Plaintiff conferred with the Deponent, Taitz, when he was
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8 informed by Taitz that she would not be appearing for the deposition scheduled for
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10 January 30, 2014, or at any time.

11 **This Motion Should Respectfully Be Transferred To The Southern**
12 **District Of Florida.**

13 This motion arises out of a lawsuit pending before the U.S. District Court for
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15 the Southern District of Florida. Plaintiff is a citizen of Florida, and the Defendant
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17 has an office located in Florida and has already hired Florida counsel who is
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19 representing it in these proceedings. All discovery proceedings in the originating
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21 lawsuit have been assigned to Magistrate Andrea M. Simonton. Magistrate Judge
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23 Simonton has the power to enforce the subpoena and is familiar with the facts of
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25 the case and able to resolve this issue. Thus, in order to save judicial resources,
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27 and for the convenience of the parties, this matter should respectfully be
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transferred back to the Southern District of Florida.

26 **CONCLUSION**

27 Plaintiff respectfully requests that this Court expeditiously transfer this
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motion to the Southern District of Florida. Alternatively, Plaintiff respectfully

1 requests that this Court issue an order compelling Taitz to sit for a deposition and
2 to produce all documents requested in the subpoena within five days.
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5 Dated: March 24, 2014
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7 Respectfully submitted,
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9 /s/ Larry Klayman
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11 Larry Klayman
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13 Defendant in Pro Se
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 24, 2014, filed the foregoing document with the Clerk of the Court using CMECF. I also certify that the foregoing document is being served this date on all counsel of record or pro se parties on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by the CM/ECF system or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Larry Klayman

LARRY KLAYMAN

Plaintiff Pro Se

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VIA EMAIL AND U.S. MAIL